

YEAS AND NAYS

Committee on Public Works

UNITED STATES SENATE

Sept. 11, 1970

Attendance

~~Vote on~~

Exec. Sess. to consider a clean bill to Amend
the Clean Air Act, and for other purposes.

9:00 a.m.

YEAS		NAYS
✓	Mr. YOUNG, Ohio	
✓	Mr. MUSKIE	
✓	Mr. JORDAN, N.C.	
	Mr. BAYH <i>Out of town</i>	✓
	Mr. MONTOYA <i>Out of town</i>	✓
✓	Mr. SPONG	
✓	Mr. EAGLETON	
	Mr. GRAVEL	
✓	Mr. COOPER	
✓	Mr. BOGGS	
	Mr. BAKER <i>Out of town</i>	✓
✓	Mr. DOLE	
✓	Mr. GURNEY	
✓	Mr. PACKWOOD	
✓	Mr. RANDOLPH, <i>Chm</i>	

COMMITTEE ON PUBLIC WORKS UNITED STATES SENATE

Date

Sept 11, 1970

*Roll call taken by telephone
to Cooper Room*

ROLL CALL 91ST CONGRESS	TEL. No.	AYE	NAY	ATTENDANCE
Jennings Randolph, W. Va., <i>Chairman</i>	6472		✓	✓
Howard H. Baker, Jr., Tenn	4944		✓	
Birch Bayh, Ind	5623			
J. Caleb Boggs, Del	5042	✓		✓
John Sherman Cooper, Ky	2542		✓	✓
Robert J. Dole, Kans	6521	✓		✓
Thomas F. Eagleton, Mo	5721	✓		✓
Mike Gravel, Alaska	6665		✓	
Edward J. Gurney, Fla	3041	✓		✓
B. Everett Jordan, N.C	6342		✓	✓
Joseph M. Montoya, N. Mex	5521		✓	
Edmund S. Muskie, Maine	5344	✓		✓
Robert W. Packwood, Oreg	5244	✓		
William B. Spong, Jr., Va	2023		✓	✓
Stephen M. Young, Ohio	2315		✓	

NOTES

Amendment filed 8-6

COMMITTEE ON PUBLIC WORKS

UNITED STATES SENATE

Date _____

Sept 10, 1970

Conf. in Baker's Office

ROLL CALL 91ST CONGRESS	TEL. No.	AYE	NAY	ATTENDANCE
Jennings Randolph, W. Va., Chairman	6472			
Howard H. Baker, Jr., Tenn	4944			
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William B. Spong, Jr., Va	2023			
Stephen M. Young, Ohio	2315			

NOTES

p 37 - debate L 24-25
p 60 - " L 1-5

COMMITTEE ON PUBLIC WORKS

UNITED STATES SENATE

Date

Sept 10, 1970

Aggs submitted for Sept 212

ROLL CALL 91ST CONGRESS	TEL. No.	AYE	NAY	ATTENDANCE
Jennings Randolph, W. Va., Chairman	6472			
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Stephen M. Young, Ohio	2315			

NOTES

nothing of substance

COMMITTEE ON PUBLIC WORKS

UNITED STATES SENATE

Date _____

Chairman _____ *Sept 11, 1970*
1970 - To report bills and amendments

ROLL CALL 91ST CONGRESS	TEL. No.	AYE	NAY	ATTENDANCE
Jennings Randolph, W. Va., <i>Chairman</i>	6472	✓		
Howard H. Baker, Jr., Tenn	4944	✓		
Birch Bayh, Ind	5623	✓		
J. Caleb Boggs, Del	5042	✓		
John Sherman Cooper, Ky	2542	✓		
Robert J. Dole, Kans	6521	✓		
Thomas F. Eagleton, Mo	5721	✓		
Mike Gravel, Alaska	6665	✓		
Edward J. Gurney, Fla	3041	✓		
B. Everett Jordan, N.C	6342	✓		
Joseph M. Montoya, N. Mex	5521	✓		
Edmund S. Muskie, Maine	5344	✓		
Robert W. Packwood, Oreg	5244	✓		
William B. Spong, Jr., Va	2023	✓		
Stephen M. Young, Ohio	2315	✓		

NOTES

Sam Cooper

"(3) (A) Within 18 months but no later than 12 months before the effective date of standards established pursuant to this subsection any manufacturer or manufacturers may file with the Secretary an application for a public hearing for review thereof and requesting a suspension for one year of the effective date of such standard. Upon receipt of such application, the Secretary shall promptly hold a hearing to enable such manufacturer or manufacturers and any other interested person to present information ^{relevant to implementation of the} ~~relating to available~~ ^{Standard} technology. The filing of an application for review under this paragraph shall not operate as a stay of such standards.

"(B) In connection with any hearing under this subsection, the Secretary may sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(C) Any decision issued by the Secretary ^{to} ~~grant~~ or deny such one year

suspension under this subsection shall be subject to judicial review by the United States Courts of Appeals for the District of Columbia, upon the filing in such court within thirty days from the date of such decision of a petition by any interested person thereby praying that the decision be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Secretary and thereupon the Secretary shall certify and file in such court the record upon which the final decision complained of was issued, as provided in section 2112 of title 28, United States Code. The court shall hear such petition on the record made before the Secretary. The findings of the Secretary shall be presumed correct. The court may affirm, vacate, or modify any decision of the Secretary and, when appropriate, issue such process as may be necessary, or may remand the proceedings to the Secretary for such further actions as it may direct. The judgment of the court shall be subject to review only by the Supreme Court of the United States upon a writ of certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of a proceeding under this subparagraph shall not operate as a stay of the final decision of the Secretary, unless and until the court determines that the interests of the public are best served by a stay of such final decision. Proceedings before the court, as authorized by this subsection, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

MEMORANDUM

Section 202 freezes into law emission standards for 1975 models that are 90% below the 1970 model levels and lower than automakers know how to meet. If these standards become fixed in law, the technology known and foreseeable today would not permit the building of cars after January 1, 1975.

Much has been learned in the past few years about how to control emissions from vehicles. The automobile companies expect to learn much more in the next two or three years. However, unless the science and technology of emission control moves ahead much faster than is now believed possible, the automobile companies will not be able to meet the standards prescribed by the bill.

The likelihood of this contingency is sufficiently acute that additional language should be added to Section 202 along the following lines:

(a) The standard proposed in the Committee bill needs to be accompanied by some administrative relief remedy to avoid production shut downs in the event control technology is not developed soon. Judicial review is no substitute for administrative review for a number of reasons:

- (1) the expertise to make such a determination rests with an administrative department (HEW);
- (2) no agency record or findings would be available to the court to aid it in its determination; and
- (3) a court would require a substantial period of time to develop the expertise necessary to make such a finding and a time delay would hamper progress in emission control.

In the development of emission controls and their incorporation in automobile production, lead time is a critical element. Lead time requirements are dictated by internal schedules covering engineering design; construction of models to determine interior and exterior dimension and configuration; construction of prototypes; reliability and durability testing; letting of tool, die and component orders; conversion of plants to new model production, and finally, full production. Agency determination concerning Federal safety and exhaust emission standards and test procedures obviously has a profound impact on lead time schedules. For example, present Federal emissions certification procedures, which require prototypes to be actually driven for 50,000 miles, are currently being changed by agency rulemaking. The proposed changes will increase the manufacturer's test time requirements, which previously took 4-6 months prior to granting a Federal certificate. Deadline for filing comments on this change is mid-October, and the final rule cannot become effective until mid-November at the earliest. Since the method of measuring compliance with a standard is integral to the standard itself, and since the only unit of government which possesses the expertise to set test methods and standards is the Department of Health, Education and Welfare, that agency is fully equipped to evaluate lead-time effects.

- (b) If authority to extend the standard's effective date is vested in the agency, the statute should specify the date by which the agency must act to grant the extension. To meet auto industry lead time problems a statutory requirement for agency decision on the 1975 model standards should come no later than January 1, 1972. To delay beyond January, 1972 would so compress the time for much needed research to reach the new levels, completion of the durability tests, letting of tool, die and component orders, and setting up production runs as to make compliance unachievable or create problems with production line quality.

(c) If the 1975 model year standard is not found achievable then language must be added to permit the Secretary to set an achievable standard for 1975 models.

(d) Emission standards are inextricably linked to measurement techniques. One cannot stand without the other. In order to permit the auto industry opportunity to comply with the standard proposed in Sec. 202 for pollutants which are not presently subject to control, a requirement should be added that the Secretary must specify techniques for measuring emissions against the standard no later than 180 days after enactment of the bill.

(e) If the Secretary extends the effective date of the 90% standard beyond the 1975 model year, then the bill should be amended to require the Secretary to publish his alternative standard within a set time period before the effective date of the alternative standard (i.e., if the Secretary determines by January 1, 1972 that the proposed statutory standard cannot be met by the 1975 model year, and the Secretary utilizes the "safety valve" to extend the standard to 1976 models, then some specified date such as January, 1973 should be spelled out in the statute as the deadline for final publication of the standard and its measurement techniques).

(f) Alternative propulsion systems must comply with the same standards as 1975 model internal combustion engines. Committee Print #2 (dated September 8, 1970) appears to require this, but it would be appropriate to incorporate explicit language carrying out such intent.

DRAFT
September 9, 1970

PROPOSED REVISED SECTION 202 (b) (1)

"(b) (1) Within 180 days after the enactment of this section, the Secretary shall publish in the Federal Register a proposed emission standard applicable to any light duty motor vehicle or any light duty motor vehicle engine manufactured after January 1, 1975, which will represent (i) for those air pollution agents for which Federal emission standards were in effect prior to the date of enactment of this Act, a ninety per centum reduction from allowable emissions for, and based upon measurement techniques applicable to, 1970 model year vehicles or engines, and (ii) for those air pollution agents for which no Federal emission standards were in effect prior to the date of enactment of this Act, such standards as are believed necessary to attain and maintain the national ambient air quality standards established under this Act.

"(2) Within 180 days after the publication of such proposed standard, the Secretary shall hold a public hearing and shall promulgate such standard in final form after such hearing, unless, based upon a preponderance of the evidence adduced at the hearing, he finds that the proposed standard is (i) not necessary to assure attainment

and maintenance of national ambient air quality standards established under this Act, or (ii) involves a greater degree of emission control than is achievable through application of the latest available or foreseeable technology. In making his findings the Secretary shall evaluate the anticipated performance of such vehicle or engine over its lifetime and other alternatives available to attain and maintain the national ambient air quality standards established under this Act. Consistent with the findings made on the basis of the evidence adduced at such hearing, the Secretary shall promulgate a final standard no later than January 1, 1972.

NOTE: If adopted, Committee Print No.2, September 8, 1970, page 47, line 23 should read: " (3) In the event".